

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PRESENTENCE ORDER

AND NOW, this **15th day of November, 2023**, defendant JAMES SMELKO was found guilty to Counts ONE and TWO of the Indictment filed at Criminal No. 22-146, and in accordance with the Sentencing Reform Act of 1984, 18 U.S.C. § 3551, *et seq.*, the Sentencing Guidelines of the United States Sentencing Commission promulgated under that Act and the Sentencing Commission Act, 28 U.S.C. § 991, *et seq.*, and the Local Criminal Rules of this Court,

IT IS HEREBY ORDERED that:

1. No later **February 1, 2024**, the Probation Office shall forward to the Defendant, and to counsel for the Defendant and for the government a copy of the tentative Presentence Report.
2. Counsel should be aware of the provisions set forth in Local Criminal Rule 32.C.2 concerning resolution of disputed facts or factors material to the sentencing. The Court expects counsel to fully comply with the procedures set forth in Local Criminal Rule 32.C.2.

3. No later than **February 22, 2024**, the Probation Office shall forward to the Court, to the Defendant, and to counsel for the Defendant and for the government a copy of the Presentence Report, as may be amended. The Probation Officer also shall forward to the Court, only, the Officer's recommendation regarding sentence.
Pursuant to Federal Rule of Criminal Procedure 32(e)(3), the recommendation shall not be disclosed to anyone other than the Court.
4. No later than **February 29, 2024**, counsel for the Defendant and for the government shall each file with this Court and serve upon the Probation Office and opposing counsel a pleading entitled "Position of [Defendant or Government, as appropriate] With Respect to Sentencing Factors," in which the parties shall set forth any objections to the Presentence Report and any anticipated grounds for departures and variances from the advisory guidelines sentencing range.
5. No later than **March 14, 2024**, the Probation Office shall file with this Court and serve upon counsel for the defendant and for the government the Presentence Report, together with an addendum setting forth any objections of counsel to the Presentence Report which have been made and which have not been resolved, together with the Probation Officer's comments thereon.
6. No later than **March 24, 2024**, counsel may file with the Court legal memoranda in aid of sentencing. *See L. Crim. R. 32.C.8.* Any submission of supplemental information regarding sentencing likewise shall be governed by Rule 32.C.8. Opposing counsel may file a response to any supplemental information or memorandum no later than three calendar days before sentencing. *Id.*

7. Sentencing of Defendant will take place on March 28, 2024 at 9:00 AM in Courtroom 8A.

IT IS SO ORDERED.



Marilyn J. Horan
United States District Judge